

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17213
[Redacted])	
Petitioners.)	DECISION
)	
)	

On January 13, 2003, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted](petitioners), proposing income tax, penalty and interest for the years 1998, 1999 and 2000 in the amount of \$27,139.

On February 28, 2003, a timely protest and petition for redetermination was received from the petitioners. An informal hearing has not been requested by the petitioners. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the Notices of Deficiency Determination.

The petitioners have failed to file Idaho income tax returns for the years 1998, 1999 and 2000. On August 1, 2002, TDB sent a letter and questionnaire to the petitioners to help the Commission properly determine the petitioners' filing requirement. The petitioners did not respond to this letter. TDB then obtained the petitioners' income information [Redacted]. The Commission issued a NOD to the petitioners [Redacted]. [Redacted]

In the petitioners' protest letter received on February 28, 2003, [Redacted] stated:

The purpose of this letter is to inform you that we have not yet filed taxes for the reporting periods 1998, 1999, and 2000. During the first two of those years, I was working full time and had the care of both our mothers, who were terminally ill. I was not able to get the taxes taken care of; however, I was not too concerned because I knew we were due a refund. (In the twenty-one years we have been filing jointly, we have had to pay additional taxes only one year, which was due to my working on a contractual basis

without having taxes withheld.)

Both my mother and my husband's mother passed away within one week of each other in 2000, at which time my husband and I sold our home and moved to Meridian to be nearer to my aging father. During the move, all of the records we had accumulated for those past years were lost. To this date, they have not been located. I have been busy working trying to recreate the records of those years and hope to be able to file all the past year's return with this year's tax return in April or May, 2003.

As for the income noted in 2000 (\$258,873), this is entirely incorrect. Our joint income for that year was [Redacted](\$71,090) and [Redacted](\$40,938). I can only assume that you have included the sale price of our home in this figure (\$146,200), which of course was paid mostly to the mortgage company to satisfy the mortgage prior to taking out another loan for the home we now occupy.

I request that you allow us additional time past March 17 2003, as we have yet to locate some of the outstanding documentation required to file the prior years' taxes. I believe we have to file the past year's taxes to be able to file this years' return.

We will await your reply and advice as to how to proceed.

On March 4, 2003, the Tax Enforcement Specialist (specialist) from TDB sent the petitioners a letter acknowledging their protest postmarked February 28, 2003, as a timely petition for redetermination of the NOD dated January 13, 2003. The specialist also told the petitioners in his letter that their file would be retained by the TDB section while he awaited the information they had yet to provide. The specialist asked that the information be provided by May 15, 2003.

The specialist sent another letter on May 23, 2003, requesting that the returns in question be provided or, if the returns were currently being prepared, an expected date of completion. The specialist requested that the petitioners respond within 15 days.

On June 9, 2003, [Redacted] e-mailed a letter to the specialist in which she stated:

Thank you for your letter. We have started to prepare some of the outstanding returns, but are still awaiting documentation and information to accurately complete all the outstanding years.

Unfortunately, some of the organizations with whom we are corresponding have been unresponsive to our requests. We have very little leverage, as we no longer have our accounts with their organizations. Can you tell me if there is any legal requirement for financial organization to provide data? Do they have a specific time period in which they must respond? If we are not able to obtain the information, is there something that we should do to enable the completion of our returns?

I would appreciate any assistance or advice you could give us that would help us to get these completed.

On June 12, 2003, the specialist responded by e-mail stating the only requirement that he was aware of was the IRS requirement for employers to maintain W-2 records for seven years. The specialist also said that W-2 information could be obtained from the Commission's records department.

[Redacted] responded by e-mail on June 13, 2003, in which she stated:

Unfortunately, these are not the forms I am lacking. I actually have used your records department and obtained whatever information they had on file. The other information is from a title company and the like.

Thank you for your prompt reply. Are you able to give us additional time to filing these past-due returns?

On June 16, 2003, the specialist responded to the e-mail request for more time by giving [Redacted] a deadline of July 18, 2003, to provide completed returns.

No response was received, so on July 30, 2003, the petitioners' file was transferred to the Commission's Legal/Tax Policy Division for further consideration.

[Redacted] sent another e-mail to the specialist on August 8, 2003, in which she stated:

We have received the outstanding items and should be able to

complete our taxes. However, we have scheduled our family vacation for the next two weeks, leaving this weekend.

Would it be possible for you to grant us yet one more extension to allow time to have the taxes prepared and submitted?

On August 5, 2003, the Tax Policy Specialist (policy specialist) sent the petitioners a letter to inform them of their alternatives for redetermining a protested NOD.

The policy specialist has spoken with [Redacted] over the phone on numerous occasions. [Redacted] has promised to file their delinquent returns many times but has failed to follow through on her promises.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of their argument, the petitioners have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

[Redacted] The petitioners have not provided the Commission with a contrary result to the determination of their income [Redacted] Therefore, the Commission must uphold the deficiencies.

WHEREFORE, the Notice of Deficiency Determination dated January 13, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,350	\$338	\$514	\$ 2,202
1999	3,480	870	1,069	5,419
2000	14,363	3,591	3,262	<u>21,216</u>
			TOTAL DUE	<u>\$28,837</u>

Interest is computed through October 31, 2004.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.